

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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4 AMATEUR ATHLETIC UNION OF
5 THE UNITED STATES, INC.,

6 Plaintiff,

7 v.

8 MATTHEW WILLIAMS, *et al.*,

9 Defendants.

Case No. 2:23-cv-00864-ART-BNW

ORDER

10 Defendants Michael Williams and Brennan Sullivan filed the present Motion to Extend
11 Time to Respond to the Complaint. (ECF No. 28). Plaintiff filed a response in opposition. (ECF
12 No. 29).

13 **I. Background**

14 Plaintiff's complaint was filed on June 1, 2023. On June 13, 2023, Defendant Michael
15 Williams was served the summons and complaint. (ECF No. 5). On June 27, 2023, Defendant
16 Brennan Sullivan was served the summons and complaint. (ECF No. 11). The time for Michael
17 Williams to answer or otherwise respond to the complaint expired on July 5, 2023. Sullivan's
18 time to answer or otherwise respond expired on July 18, 2023. That same day, counsel for
19 Sullivan and Williams contacted Plaintiff and requested an extension of time to answer. (ECF No.
20 29-1). Plaintiff agreed to allow Defendants Sullivan and Michael Williams until July 28, 2023 to
21 answer.

22 On July 28, 2023, counsel for Plaintiff informed Defendants that it would not seek default
23 if they answer by August 4, 2023. On August 9, 2023, Plaintiff moves for entry of clerk's default
24 against Defendants Williams and Sullivan. (ECF No. 27). Two hours later, Defendants Williams
25 and Sullivan file the present motion to extend time to answer or otherwise respond to the
26 complaint. On August 1, 2023, the Court granted the Wesley Defendants and Sportsplex Las
27 Vegas LLC's motion to extend time to answer, giving them until August 11, 2023.
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II. Standard for Motion to Extend

Defendants cite Federal Rule of Civil Procedure (“Rule”) 6(b)(1)(A) in favor of their motion to extend. However, that Rule does not apply in this instance, because the motion to extend time was not timely filed. Fed. R. Civ. Pr. 6(b)(1)(A) (the court may extend the time for good cause if the request is made before the original time expires). Assuming the grace extended by Plaintiff to allow a filing by August 4, 2023 was a valid extension, Defendants still failed to act timely. Therefore, Rule 6(b)(1)(B), stating “the court may, for good cause, extend the time: (B) on motion made after the time has expired if the party failed to act because of excusable neglect[.]” applies. In determining whether neglect is excusable, courts consider four factors: “(1) the danger of prejudice to the opposing party; (2) the length of the delay and its potential impact on the proceedings; (3) the reason for the delay; and (4) whether the movant acted in good faith.” *Bateman v. U.S. Postal Serv.*, 231 F.3d 1220, 1223-24 (9th Cir. 2000).

III. Analysis

Here, the danger of prejudice to the opposing party is minimal. The case is young. The parties have not yet conducted a Rule 26 conference. The motion for preliminary injunction is not yet fully briefed. Extending the deadline for Defendants Williams and Sullivan to answer will only extend the proceedings a week if the Court shortens the extension which they are seeking from September 1st to a time similar to what other parties received. The cause of the delay in this instance, failing to immediately retain counsel after consultation, does not indicate that Defendants were acting in bad faith. The worst that can be said is that Defendants failed to file a motion to extend time until after Plaintiff had moved for entry of default. Considering all of the factors, the Court finds that Defendants have shown excusable neglect.

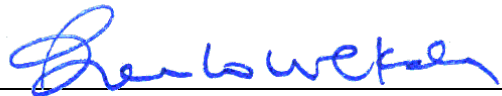
Here, counsel was not retained until August 2, 2023. Defendants have shown good cause for a brief extension to file an answer to Plaintiff’s complaint. Accordingly, the Court denies the motion to extend time until September 1, 2023. Instead, Defendants Williams and Sullivan shall file their answer or otherwise respond to the complaint no later than seven (7) days after the entry of this order.

1 **IV. Conclusion**

2 Accordingly, IT IS HERBY ORDERED that the Motion to Extend Time to Respond to
3 the Complaint, (ECF No. 28), is **GRANTED in part and DENIED in part**;

4 IT IS FURTHER ORDERED that the Defendants Michael Williams and Brennan Sullivan
5 must answer or otherwise respond to the complaint within seven (7) days of the entry of this
6 order.

7 DATED: August 10, 2023.

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9 BREND A WEKSLER
10 UNITED STATES MAGISTRATE JUDGE
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